

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1529.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF CATSUP.

On February 4, 1910, the United States Attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on May 19, 1910, an amended libel, for the seizure and condemnation of 14 barrels of catsup remaining unsold in the original unbroken packages and within the premises of the Mills Preserve Co.'s warehouse, New Orleans, La., alleging that the product had been shipped on or about November 24, 1909, from the State of Illinois into the State of Louisiana, and charging adulteration and misbranding in violation of the Food and Drugs Act. Each barrel of the product was branded: "Colored South Shore Compound Catsup. Packed by William Henning Co. Chicago, Ill., M. P. Co."

Adulteration was alleged in the libel for the reason that there had been mixed and packed with the product so as to reduce and lower and injuriously affect its quality and strength a large amount of pumpkin, and that pumpkin had been substituted in part for said catsup. Misbranding was alleged for the reason that the catsup was an imitation of and was offered for sale under the distinctive name of another article, to wit, catsup, whereas in truth and in fact it was not genuine catsup, but had mixed with it a quantity of pumpkin; that the label and brand were such as to deceive and mislead the purchaser, in that the said label and brand represented it to be genuine catsup, whereas in truth and in fact there was mixed with it a large amount of pumpkin, and in this manner the statement contained in said label was false and misleading.

On April 4, 1911, testimony having been heard by a jury, the court directed the jury to find a verdict in favor of the Government, and the jury thereupon rendered its verdict as follows: "We, the Jury, find the goods are both adulterated and misbranded." On the same day motion for a new trial was made on behalf of the William Henning Co., claimants, Chicago, Ill., and this motion was overruled. On May

12, 1911, judgment of condemnation and forfeiture was entered and it was further ordered that upon presentation of a bond in conformity with section 10 of the Act, fixed by the court at \$500, the product should be released to the claimant. The case was thereafter taken to the Circuit Court of Appeals and on February 6, 1912, the judgment of the lower court was affirmed.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *May 8, 1912.*

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